



January 20, 2006

SENATE BILL No. 33

DIGEST OF SB 33 (Updated January 19, 2006 9:48 am - DI ta)

Citations Affected: IC 29-3; IC 34-30.

Synopsis: Volunteer advocates for incapacitated adults. Replaces the volunteer advocates for seniors program with the volunteer advocates for incapacitated adults program (program) to represent and protect for a limited period the interests of an incapacitated or protected person who is at least 18 years of age. Requires a volunteer advocate for incapacitated adults to report to the court and make recommendations regarding the incapacitated or protected person. Provides civil immunity for a program or an employee or volunteer of a program.

Effective: July 1, 2006.

Alting

January 9, 2006, read first time and referred to Committee on Rules and Legislative Procedure.
January 19, 2006, amended; reassigned to Committee on Judiciary.

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SB 33—LS 6085/DI 13+



January 20, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 33

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 29-3-1-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. "Volunteer
3 advocate for ~~seniors~~ **incapacitated adults**" means an individual who:
4 (1) is a volunteer;
5 (2) has completed a limited guardian training program approved
6 by a court;
7 (3) is supervised by a community volunteer advocates for ~~seniors~~
8 **incapacitated adults** program;
9 (4) is appointed by a court to serve as a limited guardian for an
10 incapacitated person or protected person who is at least ~~fifty-five~~
11 **(55) eighteen (18)** years of age; and
12 (5) provides reports and makes recommendations to a court.
13 SECTION 2. IC 29-3-8.5-1 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A court in a
15 proceeding under this article may appoint a volunteer advocate for
16 ~~seniors~~ **incapacitated adults**.
17 SECTION 3. IC 29-3-8.5-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A volunteer advocate
2 for **seniors incapacitated adults** shall submit to the court:

- 3 (1) a progress report fifteen (15) days after the date of
4 appointment describing the matters required by the court; and
5 (2) a final report sixty (60) days after the date of appointment:
6 (A) describing the matters required by the court; and
7 (B) making recommendations to the court as to whether a need
8 exists for continued representation of the incapacitated or
9 protected person.

10 SECTION 4. IC 29-3-8.5-3 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A volunteer advocate
12 for **seniors incapacitated adults** shall:

- 13 (1) serve as a limited guardian to represent and protect the
14 interests of an incapacitated or protected person who is at least
15 **fifty-five (55) eighteen (18)** years of age;
16 (2) investigate and gather information regarding the health,
17 welfare, and financial circumstances of the incapacitated or
18 protected person, as directed by a court;
19 (3) facilitate and authorize health care, social welfare, and
20 residential placement services as needed by the incapacitated or
21 protected person;
22 (4) advocate for the rights of the incapacitated or protected
23 person;
24 (5) facilitate legal representation for the incapacitated or protected
25 person; and
26 (6) perform any other duty required by a court.

27 SECTION 5. IC 29-3-8.5-4 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A volunteer advocate
29 for **seniors incapacitated adults** may:

- 30 (1) consent to medical and other professional care and treatment
31 for the incapacitated or protected person's health and welfare;
32 (2) secure the appointment of a guardian or coguardian in another
33 state;
34 (3) take custody of the incapacitated or protected person and
35 establish the person's place of abode within Indiana or another
36 state in accordance with IC 29-3-9-2;
37 (4) institute proceedings or take other appropriate action to
38 compel the performance by any person of a duty to support the
39 incapacitated or protected person's health or welfare; and
40 (5) delegate to the incapacitated or protected person certain
41 responsibilities for decisions affecting the person's business
42 affairs and well-being.

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SECTION 6. IC 29-3-8.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. If a court appoints an individual to serve as a volunteer advocate for ~~seniors~~, **incapacitated adults**, the appointment shall be for a period of sixty (60) days. After the initial sixty (60) day period, the court may, upon petition by the volunteer or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the interests of the incapacitated or protected person.

SECTION 7. IC 29-3-8.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A volunteer advocate for ~~seniors~~ **incapacitated adults** is considered an officer of the court for the purpose of representing the interests of an incapacitated or protected person.

SECTION 8. IC 29-3-8.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The court may appoint an attorney to represent a volunteer advocate for ~~seniors~~, **incapacitated adults**.

SECTION 9. IC 29-3-8.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Except for gross misconduct:

- (1) a volunteer advocate for ~~seniors~~ **incapacitated adults** program that;
- (2) an employee of a volunteer advocates for ~~seniors~~ **incapacitated adults** program who; or
- (3) a volunteer for a volunteer advocates for ~~seniors~~ **incapacitated adults** program who;

performs duties in good faith is immune from any civil liability resulting from the program's, employee's, or volunteer's performance.

SECTION 10. IC 29-3-8.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. A volunteer advocate for ~~seniors~~ **incapacitated adults** under this chapter is not authorized to consent to or refuse health care (as defined in IC 16-36-1-1) for an individual if:

- (1) a spouse, a parent, an adult child, or an adult sibling of the individual or the individual's religious superior, if the individual is a member of a religious order, is available, capable, and suitable to consent to or refuse the health care on behalf of the individual; or
- (2) the individual has previously:
 - (A) appointed a health care representative under IC 16-36-1;
 - (B) authorized health care under IC 16-36-1.5, IC 16-36-4, or IC 16-36-5;

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(C) executed a power of attorney under IC 30-5-4; or

(D) had a guardian appointed by the court under IC 29-3.

SECTION 11. IC 29-3-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A guardian (other than a temporary guardian) or volunteer advocate for ~~seniors~~ **incapacitated adults** appointed under IC 29-3-8.5 may, with the approval of and under such conditions as may be imposed by the court after notice and hearing, change the physical presence of the protected person to another place in Indiana or to another state if the court finds that such a change is in the best interests of the protected person. Upon such a change, the guardianship may be limited or terminated by the court.

SECTION 12. IC 34-30-2-125.5, AS AMENDED BY P.L.2-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 125.5. IC 29-3-8.5-8 (Concerning a volunteer advocate for ~~seniors~~): **incapacitated adults**).

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SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 33 and that Senator Alting be substituted therefor.

GARTON

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 33, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 33 as introduced.)

GARTON, Chairperson

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